

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
V.)	CRIMINAL NO. SA-17-CR-0641-OLG
)	
ROWELL FLORA,)	
)	
Defendant.)	

**UNITED STATES OF AMERICA'S
MOTION FOR PRELIMINARY ORDER OF FORFEITURE**

Comes now the United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney and makes this Motion for Preliminary Order of Forfeiture, pursuant to the provisions of Title 21 U.S.C. §§ 853(n)(1)-(7), and Fed. R. Crim. P. 32.2(b)(2), 32.2(b)(2)(B), and 32.2(c)(1), and in support thereof states the following:

I.

On February 1, 2018, Defendant ROWELL FLORA entered a plea of guilty pursuant to a written Plea Agreement (Doc. 31) filed on January 29, 2018, to Counts Two and Three of the Indictment (Doc. 16) returned against him, charging him with the violations of Title 18 U.S.C. § 2252A(a)(2).

II.

As part of his guilty plea, said Defendant agreed to forfeit his interest in certain properties seized by the United States as part of the instant criminal prosecution. Said Defendant stipulated to a factual basis within his Plea Agreement (Doc. 31) that established by a preponderance of the evidence the nexus between the below listed electronic equipment seized as part of the instant

criminal prosecution as having been used to commit or promote the commission of the violation:

- 1. Asus Desktop computer with serial number A3PDCG0008YH;**
- 2. Acer Aspire laptop computer with serial number NXRL8AA0032090A9F23400;**
- 3. GorillaDrive 15GB thumbdrive; and**
- 4. Samsung Galaxy S6 s/n R38G80PR8SH IMEI: 357743065367520,**

hereinafter referred to as the Subject Personal Properties.

Furthermore, said Defendant agreed and waived all his right, title, and interest on forfeiture issues regarding Subject Personal Properties as part of his guilty plea.

Accordingly, the United States of America moves this Honorable Court for entry of a Preliminary Order of Forfeiture, which forfeits all right, title, and interest of Defendant ROWELL FLORA in the Subject Personal Properties.

III.

The United States moves the Court, pursuant to Title 21 U.S.C. § 853(g) and Fed. R. Crim. P. 32.2(b)(3), for an Order authorizing the United States through its lawfully designated agents and agencies, including the Federal Bureau of Investigation, to seize, take custody, control and possession of the Subject Personal Properties, whether held by Defendant ROWELL FLORA or a third party.

IV.

The United States further moves the Court, pursuant to Fed. R. Crim. P. 32.2(b)(6)(A) and (C) and Title 21 U.S.C. § 853(n)(1), for an Order authorizing the United States to cause publication for at least 30 consecutive days on an official government internet web site (www.forfeiture.gov) of notice of the Preliminary Order of Forfeiture, and of its intent to dispose of the Subject Personal Properties in such manner as the United States directs.

The United States of America further moves this Court for an Order authorizing that the

contents of the published notice be in compliance with Fed. R. Crim. P. 32.2(b)(6)(B).

V.

The United States further moves the Court, pursuant to Fed. R. Crim. P. 32.2(b)(6), for an Order authorizing the United States to send direct notice of the Preliminary Order of Forfeiture to any person or entity who reasonably appears to the United States to be a potential petitioner with standing to contest the forfeiture in the ancillary proceeding.

The United States of America further moves this Honorable Court that Appendix A¹ be served on potential petitioners along with the Preliminary Order of Forfeiture.

VI.

Pursuant to Fed. R. Crim. P. 32.2(c)(1)(B) and in an effort to promote judicial economy, the United States further moves the Court for an Order authorizing the United States to commence discovery proceedings at the time that any petitions are filed in order to resolve any third-party issues, including depositions, interrogatories, requests for production of documents, and the issuance of subpoenas, pursuant to Fed. R. Civ. P. 45.

VII.

Lastly, the United States moves the Court, pursuant to Fed. R. Crim. P. 32.2(b)(4)(B), to order that at the time of the sentencing of Defendant ROWELL FLORA the forfeiture of the Subject Personal Properties be included in his Judgment in a Criminal Case.

WHEREFORE, PREMISES CONSIDERED, the United States of America moves this Honorable Court for entry of a Preliminary Order of Forfeiture.

¹Appendix A, which is entitled “Direct Notice of Preliminary Order of Forfeiture,” sets forth the appropriate procedures, deadlines and applicable statutes necessary to file a third-party petition.

Respectfully submitted,

JOHN F. BASH
United States Attorney

By: /s/ _____
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Assistant United States Attorney
Chief, Asset Forfeiture Section
601 N.W. Loop 410, Suite 600
San Antonio, TX 78216
Tel: (210) 384-7040
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Texas Bar No. 05196800

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2018, the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System which will transmit notification of such filing to the following CM/ECF participant:

Edward A. Bartolomei
Law Office of Edward A. Bartolomei P.L.L.C.
530 Lexington Avenue
San Antonio, TX 78215
Email: bartlaw2003@yahoo.com
Attorney for Defendant ROWELL FLORA

/s/ _____
DIANA CRUZ-ZAPATA
Assistant United States Attorney

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
V.)	CRIMINAL NO. SA-17-CR-0641-OLG
)	
ROWELL FLORA,)	
)	
Defendant.)	

DIRECT NOTICE OF PRELIMINARY ORDER OF FORFEITURE

Notice is hereby given that in the case of *U.S. v. Rowell Flora*, Criminal No. SA-17-CR-0641-OLG for the Western District of Texas entered a Preliminary Order of Forfeiture condemning and forfeiting the following property to the United States of America:

1. **Asus Desktop computer with serial number A3PDCG0008YH;**
2. **Acer Aspire laptop computer with serial number NXRL8AA0032090A9F23400;**
3. **GorillaDrive 15GB thumbdrive; and**
4. **Samsung Galaxy S6 s/n R38G80PR8SH IMEI: 357743065367520.**

The United States hereby gives notice of its intent to dispose of the forfeited property in such manner as the United States Attorney General may direct. Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States must file a petition within 30 days of the final publication of notice or his receipt of notice, whichever is earlier pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure and Title 21 U.S.C. §§ 853(n)(1)-(3). The petition must be filed with the Clerk of the Court, 655 E. Cesar E. Chavez, Room G-65, San Antonio, Texas 78206, and a copy served upon Assistant United States Attorney Diana Cruz-Zapata, 601 N.W. Loop 410, Suite 600, San Antonio, Texas 78216.

The petition must comply with the requirements of Title 21 U.S.C. § 853(n).

If you fail to file a petition to assert your interest in the above-described property within the time prescribed above, your interest in this property will be lost and forfeited to the United States, which will then have clear title to the property and will dispose of the property in accordance with the law.

APPENDIX A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
V.)	CRIMINAL NO. SA-17-CR-0641-OLG
)	
ROWELL FLORA,)	
)	
Defendant.)	

PRELIMINARY ORDER OF FORFEITURE

Came on to be considered the United States of America's Motion for Preliminary Order of Forfeiture, pursuant to the provisions of Title 21 U.S.C. §§ 853(n)(1)-(7), and Fed. R. Crim. P. 32.2(b)(2), 32.2(b)(2)(B), and 32.2(c)(1), and this Court being fully and wholly apprised in all its premises, finds that the United States has established by a preponderance of the evidence a nexus between the below-described property and the violations of Title 18 U.S.C. § 2252A(a)(2), by virtue of Defendant ROWELL FLORA's written Plea Agreement and factual basis and that the Defendant has an interest in said property. As such, said Motion is meritorious, and hereby is in all things GRANTED. IT IS THEREFORE

ORDERED that all right, title, and interest of Defendant ROWELL FLORA in the certain property, namely:

1. **Asus Desktop computer with serial number A3PDCG0008YH;**
2. **Acer Aspire laptop computer with serial number NXRL8AA0032090A9F23400;**
3. **GorillaDrive 15GB thumbdrive; and**
4. **Samsung Galaxy S6 s/n R38G80PR8SH IMEI: 357743065367520,**

hereinafter referred to as the Subject Personal Properties be, and hereby is FORFEITED to the United States of America; and IT IS FURTHER

ORDERED that upon entry of the Preliminary Order of Forfeiture, the United States through its lawfully designated agents and agencies, including the Federal Bureau of Investigation, to seize, take custody, control and possession of the Subject Personal Properties, whether held by Defendant ROWELL FLORA or a third party; and IT IS FURTHER

ORDERED that the United States shall cause publication for at least 30 consecutive days on an official government internet website (www.forfeiture.gov) of the notice of the Preliminary Order of Forfeiture and of its intent to dispose of the Subject Personal Properties in such manner as the United States directs. The United States must send notice to any person or entity who reasonably appears to be a potential petitioner with standing to contest the forfeiture in the ancillary proceeding; and IT IS FURTHER

ORDERED that the United States shall send Direct Notice of the Preliminary Order of Forfeiture, Appendix A, which is attached to the United States of America's Motion for Preliminary Order of Forfeiture, and incorporated herein to those known to the United States to have an interest in the Subject Personal Properties; and IT IS FURTHER

ORDERED that in the event a third-party petition is filed as to the Subject Personal Properties the United States shall commence discovery proceedings to resolve any third-party issues, including depositions, interrogatories, requests for production of documents, and the issuance of subpoenas, pursuant to Fed. R. Civ. P. 45; and IT IS FURTHER

ORDERED that at the time of the sentencing of Defendant ROWELL FLORA the forfeiture of the Subject Personal Properties shall be included in his Judgment in a Criminal Case.

IT IS SO ORDERED.

SIGNED this _____ day of _____, 2018.

ORLANDO L. GARCIA
Chief United States District Judge